

# Report

## Refugee Status and Citizenship Sri Lankan Tamil Refugees in India\*

Citizenship is the (legal) foundation on which the entitlements of the citizens of a nation state are based. It is the foundation on which citizens demand their rights and accept their responsibilities. It is this judicial status that enables individuals to gain access to and acquire the right to demand necessities such as universal education, shelter, a social security system, and the right to employment and a secure livelihood. Refugee status is therefore an inadequate judicial base for an individual in order to access the benefits of a nation state. Its mere design, in the eyes of official bureaucracy, is only to enable a nominal and temporal existence within the state's economic and territorial domain. The constitutional rights of freedom of movement are reserved only for citizens.

Refugees are conceptualized by the state and propagated through various means as those who are alien and thereby their presence is deemed to be temporary. From an economic perspective they should also not be a 'burden' on the state or local economy, which they would be if they were working or demanding social and economic security. Based on such an understanding, the nation state's basic responsibility towards the refugees is only to ensure their survival until they are able to return home. But what happens if the refugees' environment at home is not conducive for them to return? And that their intended temporary stay becomes a prolonged affair? Not only that, what if the state that harbors them has had several millenniums' old sustained social, cultural and economical interaction with the refugees' traditional homeland? How does this fact change the relationship between the state and the refugee, or the state and their homeland?

### Sri Lankan Tamils in India

There are now over 1, 20,000 Sri Lankan Tamil refugees in India, and over 70,000 of them stay in refugee camps situated around in Tamil

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Refugee Watch, 39 & 40, June and December 2012

Nadu<sup>1</sup>. Refugees from Sri Lanka fled in several waves since 1983, and many have been in India for over 20 years. Sri Lankan Tamils belong to a wider Tamil speaking population, and there has been a historically complex interaction between communities on the both sides of the Palk Strait. Its close proximity to South India, has led to communities migrating from Sri Lanka to Tamil Nadu and maybe more interestingly, there has been migration the other way around as well. India started its close, political involvement in their neighboring island already in 1971, when Indira Gandhi sent the Indian armed forces to assist Colombo in quelling the JVP (Janatha Vimukthi Peramuna) led insurgency. In 1987 under Rajiv Gandhi's regime, the IPKF (Indian Peace Keeping Force) was sent into the Tamil areas of the island, and an occupation ensued, lasting 3 years, and causing massive destruction to the Tamils. India has been intricately involved throughout the island's ethnic conflict. After the morbid end of the armed conflict in 2009 May, New Delhi has considerably geared up its multifaceted investments in the island. This history of involvement should also be looked upon as a legitimate base to demand from the Central government, a responsibility to facilitate a more human and self-determinist existence, through law enshrined rights, for the tens of thousands Sri Lankan Tamil refugees in India. As they speak the regional language, Tamil, and since many of these refugees hold basic educational qualifications, the only major obstacle they face are the Government policies that prevent them from securing employment and contributing to the welfare of society. In this regard, the Tibetan refugee situation and the rights they enjoy must be set as a model which, with no delay, should be entitled to the Sri Lankan Tamils. Besides ensuring basic rights, it is up to the political leadership and the parliament to bring in laws or schemes to further assist refugee communities. During the Nehru regime, the Tibetan refugee community received legal entitlements to special rights such as to work and hold property. Livelihood is a must to enable a secure life. Only with income can a person have the opportunity to gain social mobility. Livelihood is only accessible if a person has the right to work. In many places in India such as Bengaluru, Delhi, Goa, Puducherry (earlier known as Pondicherry) and Udhagamandalam (Ooty), Tibetans run shops of various kinds. Most of their businesses seem to be confined to the marketing of garments and ornaments. It is only because they enjoy the right to employment, that they are independently involved in these economic activities that sustain their lives.

This is in stark comparison to the existence faced by Tamil refugees in India. As soon as they arrive into the country, they are registered with the police and then holed up in refugee camps that are congested, difficult to live in and lack basic facilities such as toilets, electricity, water, and educational institutions. There are frequent processes of registration and checkups by police and security authorities that creates an atmosphere where

Sri Lankan Tamil refugees are rendered collectively as a criminalized community. Their inability to work legally systematically circumscribes them to exist as an exploited, informal and unorganized labor force. This severely limits money procurement, which in turn restricts the educational pursuit of many. Refugee youth then turn to '*koolivelai*' (daily wage labourers). Those who do not have family members in the Tamil diaspora are also obliged to look after their family members in Sri Lanka thus adding further complications. In addition to this, the military occupation in their homeland generates an atmosphere that is highly volatile for the individual and the community. With time in India, the refugees accumulate multifaceted pressures and frustrations, after remaining in similar conditions with no or little structural change. They are often left with no choice but to stay on and become subject to the oppressive conditions in the camps, since they can neither return to Sri Lanka, nor leave India to go elsewhere.

On the 4 June 2012, 151 Sri Lankan Tamils were detained in Kollam, Kerala, by Indian authorities while they were preparing to sail towards Australia. Among the detained, there were 19 women and 22 children. Two days later, 21 of those detained, including two women and their three infants were arrested and jailed for violating the Foreigners Act. In *The Hindu* this was reported as an act of economic opportunism on the part of the Sri Lankan Tamils. The emphasis was put on the sum paid by the refugees and that 124 of the detained sneaked out of camps in Tamil Nadu in order to flee<sup>2</sup>. The structural conditions they were escaping from and which forced them to risk such a hazardous migration is omitted. Clearly the conditions they were living in pushed them to make this decision. Unfortunately, the only space given in the news to understand refugee life is "*These people alleged that they sneaked out of the camps because of the tough life there*". In *Tehelka*, this inhuman detention was reported and colored as another case of human trafficking<sup>3</sup>. Again these refugees' structural condition and material reality was not accounted for. The refugees are rendered as informal daily laborers, contained in camps, their movement restricted and under surveillance. The pressure these people face in providing provisions for family members in camps or back home in Sri Lanka, or the dangers they face if deported to Sri Lanka is never mentioned nor scrutinized. It is believed without question that they are just being tricked into these trips by ruthless agents, like adventurous cows that fall prey to the thought of the grass being greener on the other side. The sum each refugee pays is elaborated. The reader is led to believe that these people were seduced into this due to greed or pursuit of fortunes, as is the case with many immigrants. The main purpose is to illuminate the shadowy, international human trafficking network operated by Sri Lankan Tamils that is orchestrated in South India. The awareness around the situation and conditions of existence for Sri Lankan Tamils, both as refugees, and those in Sri Lanka, especially the IDPs (Internally Displaced Persons) seems to be minimal. The

suppression of human rights in many T.N camps and the military occupation in North and East Sri Lanka are not even presented as factors which may coerce refugees to flee or pursue such a path.

Such journalistic coverage will only aide to sustain the apathy towards the refugees' grievances and the oppressive conditions they try to escape. With such an inadequate legal base, harsh treatment by authorities and unfavorable media coverage, these familiar aliens, the Tamil refugees in India face an insecure and harsh future.

## Notes

<sup>1</sup> Word Refugee Survey 2009 – India.

<http://www.unhcr.org/refworld/country,,USCRI,,BTN,,4a40d2a75d,0.html>  
(accessed 06.05.2012)

<sup>2</sup> 21 Sri Lankan Tamils arrested:

<http://www.thehindu.com/news/national/article3494012.ece> (accessed 06.05.2012)

<sup>3</sup> [http://www.tehelka.com/story\\_main52.asp?filename=Ws040612Kerala.asp](http://www.tehelka.com/story_main52.asp?filename=Ws040612Kerala.asp)  
(accessed 06.05.2012)